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**UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA**

JPMORGAN CHASE BANK, N.A.,

Plaintiff,

vs.

SFR INVESTMENTS POOL 1, LLC, a  
Nevada limited liability company;  
MONTAGNE MARRON COMMUNITY  
ASSOCIATION, a Nevada non-profit  
corporation; RODRIGO J. COLOMA, an  
individual; NICOLE E. COLOMA, an  
individual,

Defendants.

Case No.: 2:16-cv-02230-RFB-VCF

**JOINT STIPULATION AND ORDER  
TO STAY LITIGATION**

SFR INVESTMENTS POOL 1, LLC, a  
Nevada limited liability company,

Counterclaimant/Cross-Claimant,

vs.

JPMORGAN CHASE BANK, N.A., a  
national banking association; RODRIGO  
J. COLOMA, an individual,

Counter-Defendant/Cross-Defendant.

///

1                                    **STIPULATION AND ORDER TO STAY LITIGATION**

2            Plaintiff/Counter-defendant   JPMorgan   Chase   Bank,   N.A.   (“Chase”),  
3   Defendant/Counterclaimant/Cross-Claimaint SFR Investments Pool I, LLC (“SFR”),  
4   and Defendant Montagne Marron Community Association (the “HOA”) (collectively,  
5   the “Parties”)<sup>1</sup>, hereby stipulate and agree as follows:

6            1.        This is a quiet title action arising from a homeowners’ association  
7   foreclosure sale (the “Sale”) of residential property located at 11208 Lavandou Drive,  
8   Las Vegas, Nevada (the “Property”).

9            2.        Alessi & Koenig, LLC, as agent for the HOA, conducted the Sale  
10   pursuant to NRS Chapter 116.

11           3.        Chase alleges it is the beneficiary of a deed of trust recorded against the  
12   Property. Chase contends that the deed of trust survived the Sale or, alternatively,  
13   that the Sale was void.

14           4.        SFR contends the Sale extinguished the deed of trust as a matter of law.

15           5.        Chase added the HOA as a necessary party to the action due to its role  
16   in the Sale.

17           6.        Chase argues, among other things, that the notice provisions of NRS  
18   Chapter 116 are facially unconstitutional under the Due Process Clause of the  
19   Fourteenth Amendment.

20           7.        In *Bourne Valley Court Trust v. Wells Fargo Bank, NA*, 832 F.3d 1154  
21   (9th Cir. 2016), the Ninth Circuit Court of Appeals accepted this argument and held  
22   that Chapter 116’s notice provisions facially violate due process by requiring  
23   purported junior lienholders to “opt in” for notice of a homeowners’ association  
24   foreclosure sale.

25  
26  
27   \_\_\_\_\_  
28   <sup>1</sup> Defendant Rodrigo Coloma has been served but has not appeared. The staying of  
this action would not prejudice Rodrigo Coloma in any way. Chase voluntarily  
dismissed Nicole Coloma from this action.

1           8.     In *Saticoy Bay LLC Series 350 Durango 104 v. Wells Fargo Home*  
2 *Mortg.*, 388 P.3d 970, 972 (Nev. 2017), the Nevada Supreme Court disagreed with  
3 *Bourne Valley* by holding that a foreclosure sale under Chapter 116 does not involve  
4 sufficient state action to implicate the Due Process Clause of the Fourteenth  
5 Amendment. *See id.* The non-prevailing party in *Bourne Valley* petitioned the  
6 United States Supreme Court for certiorari on or about April 5, 2017.

7           9.     The Parties request a stay of litigation to allow the United States  
8 Supreme Court to address the certiorari petition in *Bourne Valley*.

9           10.    Several judges in this district have stayed similar cases pending the  
10 exhaustion of all appeals before the United States Supreme Court. *E.g., Nationstar*  
11 *Mtg. LLC v. Green Valley S. Owners Assoc.*, No. 2:16-cv-00883-GMN-GWF (D. Nev.,  
12 Oct. 5, 2016); *Bank of America, N.A. v. Canyon Willow Trop Owners' Assoc.*, No. 2:16-  
13 cv-01327-GMN-VCF (D. Nev. Oct. 26, 2016); *Deutsche Bank Nat'l Trust Co. v. Copper*  
14 *Sands HOA*, No. 2:16-cv-00763-JAD-CWH (D. Nev. Feb. 28, 2017); *Ditech Financial*  
15 *Services, LLC v. Highland Ranch Homeowners Assoc.*, No. 3:16-cv-00194-MMD-WGC  
16 (D. Nev. Mar. 7, 2017); *Wells Fargo Bank, N.A. v. Las Vegas Dev. Group, LLC*, 2:16-  
17 cv-02621-RFB-NJK (D. Nev. Mar. 9, 2017).

18           11.    To determine if a continued stay is appropriate, the Court considers (1)  
19 any potential damage or prejudice arising from the stay; (2) any potential hardship or  
20 inequity that befalls one party more than the other as a result of the stay; and (3) the  
21 orderly course of justice. *See Dependable Highway Exp., Inc. v. Navigators Ins. Co.*,  
22 498 F.3d 1059, 1066 (9th Cir. 2007) (setting forth factors). Here, the factors support a  
23 stay of litigation.

24           a. Damage or Prejudice from Stay: Any potential damage or prejudice  
25 arising from a temporary stay in this case would be minimal when  
26 balanced against the fees, costs, and time which will be incurred in  
27 litigation. The resolution of the appeal in *Bourne Valley* could resolve  
28 threshold issues pending in this matter and accordingly influence the

litigation strategies of the parties. A stay would also ensure that the issues raised in this matter are resolved in a consistent and efficient manner. Moreover, a stay will conserve judicial resources and promote judicial efficiency by preventing potentially unnecessary litigation pending the outcome of the appeals.

b. Hardship or Inequity: The Parties agree that any potential hardship or inequity falling on any of them is outweighed by the benefits of a stay, as all parties will benefit from waiting until the appeals are resolved.

c. Orderly Course of Justice: At the center of this case is a homeowners' association's foreclosure sale under NRS 116. The outcome of any Supreme Court appellate proceedings in *Bourne Valley* has the potential to resolve threshold issues pending in this matter. Without a stay, the parties will expend resources on litigation involving these cases that could be rendered unnecessary if the petition is granted. A temporary stay would substantially promote the orderly course of justice in this case by preventing unnecessary expenditure of the parties' and the Court's resources pending final resolution of *Bourne Valley*.

12. The Parties agree that all proceedings in the instant case, including motion, discovery, and other litigation deadlines are stayed pending final resolution of the *Bourne Valley* certiorari proceedings before the U.S. Supreme Court.

13. The Parties agree to submit a status report to the Court every 90 days after the date of an order granting this joint motion.

14. The Parties further agree that each report will inform the Court of the status of the certiorari petition in *Bourne Valley*.

15. The Parties further agree that each report will inform the Court regarding whether the Parties wish to keep the stay of litigation in place or lift the stay.

1 16. The Parties further agree that any party to this case may independently  
2 move to lift the stay at any time.

3 Dated: this 11th day of May, 2017.

4  
5 BALLARD SPAHR LLP

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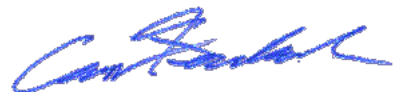
13  
14 THE CLARKSON LAW GROUP, P.C.

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18 *Attorney for Montagne Marron Community Association*

19  
20 **ORDER**

21 **IT IS SO ORDERED.**



22  
23 U.S. MAGISTRATE JUDGE

24 Dated: 5-12-2017